

AMENDED IN ASSEMBLY MAY 28, 2014

AMENDED IN ASSEMBLY MAY 15, 2014

AMENDED IN ASSEMBLY APRIL 29, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1804**

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### Introduced by Assembly Member Perea

February 18, 2014

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An act to add Section 396 to the Insurance Code, relating to insurance.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1804, as amended, Perea. Insurance: notice of lapse.

Existing law requires an insurance policy to specify certain information, including, but not limited to, the parties to the contract, the property or life insured, the risks insured against, premium, and the coverage period.

~~This bill, commencing July 1, 2015, would provide, with regard to an individual insurance policy covering real property, personal property, as described, liability, or health, issued or renewed on or after July 1, 2015, that an insured has the right to designate in writing one individual, in addition to the applicant, to receive notice of lapse, termination, expiration, nonrenewal, or cancellation of the policy for nonpayment of premium, as specified.~~ *commencing January 1, 2016, and with regard to private passenger automobile insurance, specified owner-occupied homeowners' insurance risks, and policies of individual disability income insurance that are issued and take effect or that are renewed on or after January 1, 2016, would require an insurer to maintain a*

*process that allows an insured to designate one additional person to receive notice of lapse, termination, expiration, nonrenewal, or cancellation of a policy for nonpayment of premium, as specified. The bill would prohibit an insurance policy from lapsing or being terminated for nonpayment of premium unless the insurer, at least 10 days prior to the effective date of the lapse, termination, expiration, nonrenewal, or cancellation, gives notice, as provided, to the individual designated, if any, at the address provided by the insured for these purposes. The bill would specify that an individual designated by a policyholder does not have any rights, whether as an additional insured or otherwise, to any benefits under the policy, other than the right to receive the notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of premium.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 396 is added to the Insurance Code, to  
2 read:  
3 396. (a) ~~An insured has the right to designate in writing insurer~~  
4 *shall maintain a process that allows an insured to designate in*  
5 *writing one additional person to receive notice of lapse,*  
6 *termination, expiration, nonrenewal, or cancellation of a policy*  
7 *for nonpayment of premium. The insurer shall notify the insured*  
8 *of this right at the time of the application and at least every two*  
9 *years thereafter. The notification described in this subdivision*  
10 *shall instruct the insured how to request the designation and how*  
11 *to replace or delete a designee.*  
12 (b) *If an insurer does not maintain the process described in*  
13 *subdivision (a), the insurer shall comply with subdivisions (c) to*  
14 *(i), inclusive.*  
15 ~~(b)~~  
16 (c) Unless an applicant for insurance has been provided notice  
17 of the right set forth in this section prior to inception of the policy,  
18 the insurer shall provide the insured, within 30 days after the  
19 inception date of an individual policy described in ~~subdivision (h);~~  
20 *subdivision (i), with notice of the right to designate one person, in*  
21 *addition to the insured, to receive the notice of lapse, termination,*  
22 *expiration, nonrenewal, or cancellation of a policy for nonpayment*

1 of premium. The insurer shall provide each applicant or insured  
2 with written notice ~~and a form of the opportunity~~ to make the  
3 designation. That ~~form shall provide the opportunity for the~~  
4 ~~applicant or insured~~ *notice shall instruct the applicant or insured*  
5 *on how he or she is* to submit the name, address, and telephone  
6 number of one person, in addition to the applicant or insured, who  
7 is to receive notice of lapse, termination, expiration, nonrenewal,  
8 or cancellation of the policy for nonpayment of premium.

9 (e)

10 (d) If ~~after receiving~~ *having been provided* notice from the  
11 insurer of the right to designate an individual to receive notice of  
12 lapse, termination, expiration, nonrenewal, or cancellation for  
13 nonpayment of premium, the applicant fails to take action pursuant  
14 to subdivision (a) within 30 days, the insured shall be conclusively  
15 presumed to have declined the opportunity to exercise his or her  
16 right at that time.

17 (d)

18 (e) Notwithstanding subparagraph (C) of paragraph (2) of  
19 subdivision (a) of Section 791.13 or any other law, the insurer  
20 shall retain and utilize as necessary the contact information  
21 provided in the written designation for the lifetime of the policy,  
22 and allow the insured to update the written designation if the  
23 insured so requests.

24 (e)

25 (f) An insured retains the right to designate ~~an~~ *the one* additional  
26 person to receive notice of lapse, termination, expiration,  
27 nonrenewal, or cancellation for nonpayment of premium at any  
28 time, at the initiative of the insured, regardless of whether the  
29 insured previously declined to exercise that right. ~~Not less than~~ *At*  
30 *least* every two years, the insurer shall notify the insured in writing  
31 of whichever of the following applies:

32 (1) If an insured has previously provided a written designation  
33 pursuant to ~~subdivision (a)~~, *subdivision (c)*, the right to change the  
34 prior written designation by ~~adding~~ *replacing* or deleting a person  
35 to receive notice of lapse, termination, expiration, nonrenewal, or  
36 cancellation for nonpayment of premium.

37 (2) If the insured has ~~not previously waived~~ *designated a person*  
38 *to receive the notice of lapse, termination, expiration, nonrenewal,*  
39 *or cancellation for nonpayment of premium pursuant to subdivision*  
40 *(c)*, the right to designate a person to receive notice of lapse,

1 termination, expiration, nonrenewal, or cancellation for  
2 nonpayment of premium.

3 *(3) The notice requirements in paragraphs (1) and (2) may be*  
4 *provided to insureds in a single notice and shall not require two*  
5 *separate notices.*

6 ~~(f)~~

7 (g) When an insured pays the premium for an insurance policy  
8 through a payroll or pension deduction plan, the requirements  
9 contained in subdivision ~~(a)~~ (c) need not be met until 60 days after  
10 the insured is no longer on that deduction payment plan. The  
11 application form for an insurance policy shall clearly indicate the  
12 deduction payment plan selected by the applicant.

13 ~~(g)~~

14 (h) An insurance policy shall not lapse or be terminated for  
15 nonpayment of premium unless the insurer, at least 10 days prior  
16 to the effective date of the lapse, termination, expiration,  
17 nonrenewal, or cancellation, gives notice to the individual  
18 designated pursuant to subdivision (a) at the address provided by  
19 the insured for purposes of receiving the notice of lapse,  
20 termination, expiration, nonrenewal, or cancellation for  
21 nonpayment of premium. Notice shall be given by first-class United  
22 States mail, postage prepaid, within 10 days after the premium is  
23 due and unpaid. This subdivision does not modify requirements  
24 for notice to the insured of lapse, termination, expiration,  
25 nonrenewal, or cancellation set forth in other sections of this code.

26 ~~(h) This section applies to policies of insurance, other than~~  
27 ~~workers' compensation insurance, on risks located or resident in~~  
28 ~~this state that are issued and take effect or that are renewed after~~  
29 ~~the effective date of this section and insuring any of the following~~  
30 ~~contingencies:~~

31 ~~(1) Loss of or damage to real property that is used predominantly~~  
32 ~~for residential purposes and that consists of not more than four~~  
33 ~~dwelling units.~~

34 ~~(2) Loss of or damage to personal property in which natural~~  
35 ~~persons resident in specifically described real property of the kind~~  
36 ~~described in paragraph (1) have an insurable interest, except~~  
37 ~~personal property used in the conduct of a commercial or industrial~~  
38 ~~enterprise.~~

39 ~~(3) Legal liability of a natural person or persons for loss of,~~  
40 ~~damage to, or injury to, persons or property, but not including~~

1 ~~policies primarily insuring risks arising from the conduct of a~~  
2 ~~commercial or industrial enterprise.~~

3 ~~(4) Disability and health insurance as defined in Section 106.~~

4 ~~(i) This section applies only to policies of private passenger~~  
5 ~~automobile insurance, owner-occupied homeowners' insurance~~  
6 ~~on risks located or resident in this state that are issued and take~~  
7 ~~effect or that are renewed after the effective date of this section,~~  
8 ~~and policies of individual disability income insurance as described~~  
9 ~~in subdivision (i) of Section 799.01.~~

10 ~~(i)~~

11 ~~(j) This section applies to policies that are issued and take effect~~  
12 ~~or that are renewed on or after July 1, 2015. January 1, 2016.~~

13 ~~(j)~~

14 ~~(k) An individual designated by a policyholder pursuant to this~~  
15 ~~section to receive notice of lapse, termination, expiration,~~  
16 ~~nonrenewal, or cancellation of the policy for nonpayment of~~  
17 ~~premium does not have any rights, whether as an additional insured~~  
18 ~~or otherwise, to any benefits under the policy, other than the right~~  
19 ~~to receive notice as provided by this section.~~

20 ~~(k)~~

21 ~~(l) This section shall become effective on July 1, 2015. operative~~  
22 ~~on January 1, 2016.~~